IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1162 OF 2006
IN
CRIMINAL APPEAL NO.1087 OF 2006

Janardan Shivram Sase ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr.R.D.Suryawanshi for the Applicant
Mr.A.S.Shitole,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : DECEMBER 7,2006.

P.C.:

1. The submissions of the Advocates for the parties were heard on the last date. The Applicant has been convicted for the offence punishable under section 304 (II) of the Indian Penal Code as well under section 504 of the Indian Penal Code. The substantive sentences are ordered to run concurrently. The maximum substantive sentence is R.I. for five years.

2. The Advocate for the Applicant submitted that the Applicant was on bail throughout the trial and there is no allegation of misuse of the liberty granted in his favour. He submitted that even going by the prosecution case, it is a case of a single blow given by the Applicant by a wooden stick on the head of the deceased during the course of an altercation. He pointed out that the deceased expired eight days after the incident. The learned A.P.P. stated that looking to the gravity of the offence, no case is made out for

enlarging the Applicant on bail.

3. I have heard the submissions. I have also perused the impugned judgment and notes of evidence. Perusal of the evidence of the P.W.No.1 Gulabbai shows that a single blow was given by the Applicant by a wooden rod on the head of the deceased Ashok. The incident occurred when there was an altercation which was an outcome of certain words uttered by the Applicant against Ashabai. The death occurred after a period of about eight days from the incident. Perusal of the P.M.Notes shows that there was a stitched wound on right parietal frontal region. Head injury is the cause of death.

4. Considering the fact that there is a single blow given by the Applicant by a stick, there was an altercation in which the blow was given and the fact that the applicant was on bail throughout the trial are the factors relevant for considering the prayer for grant of bail.

5. Considering the aforesaid facts, bail will have to be granted subject to stringent conditions.

6. Hence, Application is disposed of by passing the following order :

i) The Applicant shall be enlarged on bail in the sum of

Rs.10,000/- (Rupees ten thousand only) with one or two local sureties in the like amount.

ii) Bail is granted subject to the condition that the till the disposal of the Appeal, the applicant will not enter village Nandval, Taluka Shahapur, District Thane.

iii) Order granting bail will be given effect only after the applicant furnishes the complete address of his place of residence where he proposes to stay after he is enlarged on bail.

iv) Bail is granted subject to the condition that till the final disposal of the Appeal he will report to the Kinhavli Police Station, District Thane once in every calender month.

JUDGE